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FILED
DISTRICT COURT OF GUAM

AUG 29 2005 *SP*

Attorney for **Christopher M. Espinosa**

MARY L.M. MORAN
CLERK OF COURT

DISTRICT COURT OF GUAM
TERRITORY OF GUAM

UNITED STATES OF AMERICA,)

Criminal Case No. 05-00053

vs.)

CHRISTOPHER M. ESPINOSA. et al.)

MEMORANDUM IN SUPPORT OF COURT
APPOINTED COUNSEL'S MOTION TO
WITHDRAW

Defendant.)

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF FACTS

Model Rule 1.16 (b) of the Model Rules of Professional Conduct provides:

Declining or Termination Representation

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or it:

- (1) Withdrawal can be accomplished without adverse effect on the interest of the client;
- (2) The client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
- (3) The client has used the lawyer's services to perpetrate a crime or fraud;
- (4) A client insists upon pursuing an objective that the lawyer considers repugnant or imprudent;

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- 4 (5) The client fails to substantially fulfill an obligation
to the lawyer regarding the lawyer's services and
5 has been given reasonable warning that the
lawyer will withdraw unless the obligation is
6 fulfilled;
- 7 (6) **The representation** will result in an unreasonable
financial burden on the lawyer of **has been**
8 **rendered unreasonably difficult by the client;**
or (emphasis added).
- 9 (7) **Other** good case for withdrawal exists.

10 As shown by the Declaration of Rawlen M T Mantanona, attached hereto as Exhibit
11 "A" and incorporated herein by reference, withdrawal is warranted in the above-referenced
12 case. Defendant is incarcerated and currently awaiting trial. The Defendant needs
13 counsel to assist him representation and to argue on his behalf at trial. Defendant has not
14 been satisfy with Movant's representation and does not believe Movant is doing everything
15 to protect his interest. This distrust and lack of confidence goes back to the defendant's
16 arraignment and was raised to the judge. As a result, communication between Defendant
17 and counsel has completely broken down and Defendant expresses that he has lost all
18 confidence in counsel with regards to representing him in the above captioned case. In
19 addition, Defendant has requested that Movant withdraw from representation and would
20 like new counsel.

21 In that regard, Defendant should be granted new counsel in substitute of the
22 undersigned. A "refusal to allow substitution of attorneys may result in denial of the
23 constitutional right to effective assistance of counsel if the defendant and his attorney are
24 embroiled in an 'irreconcilable conflict'." U.S. v. McClendon, 782 F.2d 785 (9th Cir. 1986)
25 *citing* Brown v. Craven, 424 F.2d 1166, 1170 (9th Cir. 1970).

6 Based on the foregoing, we respectfully request the court grant an order relieving
7 the undersigned counsel from further representation of Defendant Christopher M.
8 Espinosa.

9 Respectfully submitted this 29 day of August, 2005.

11 MANTANONA LAW OFFICE
12 Attorney for **Christopher M. Espinosa**

13
14 By: 

15 RAWLEN M T MANTANONA, ESQ.
16 A duly licensed attorney
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